



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/002,906	01/05/1998	THEODORE D. WUGOFSKI	450.196US1	8339
32719 7590 04/22/2008 GATEWAY, INC. ATTN: PATENT ATTORNEY 610 GATEWAY DRIVE MAIL DROP Y-04 N. SIOUX CITY, SD 57049				
EXAMINER HUYNH, SON P				
ART UNIT 2623		PAPER NUMBER		
MAIL DATE 04/22/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/002,906

**Applicant(s)**

WUGOFSKI ET AL.

**Examiner**

SON P. HUYNH

**Art Unit**

2623

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12, 19-29 and 34-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 19-29 and 34-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed January 25, 2008 regarding claims 1-12, 19-29, 34-51 have been fully considered but they are not persuasive.

Applicant argues Hendricks patents do not teach add logical channels to a favorite list without user intervention because Hendricks discloses "a responsive method of suggesting programs or channels" in which "program selections can be responsive to information gathered from inquiries" entered by the user (page 13, paragraph 3 - page 14, paragraph, paragraph 1). This argument is respectfully traversed.

The Examiner agrees that Hendricks discloses "responsive method of suggesting programs or channels". However, this is just one of the methods of suggesting programs or channels. In addition to "responsive method", Hendricks also discloses intelligent methods and methods which integrate both responsive and intelligent methodologies (see include, but are not limited to, Hendricks Patent No. 5,798,785: col. 29, lines 1-43). In intelligent method, the set top terminal can literally "learn" to suggest appropriate programs or channels for a viewer. The viewer's activities are gathered and stored by the set top terminal unbeknownst to the subscriber. A simple example is the set top terminal "learning" which channels are a subscriber's favorite channels...(see include, but

Art Unit: 2623

are not limited to, Hendricks Patent No. 5,798,785: col. 29, lines 1-43). Hendricks further discloses the CAP (computer assistant Program) automatically (without packager intervention) access the MII 400 and the EIS (including gathered information using "learning" mode/intelligent method discussed above) to obtain necessary decision making information on transponder allocation (see include but are not limited to, Hendricks Patent No. 6,539,548: col. 32, lines 29-62). Thus, the logical channel (e.g., channel number or virtual channel) is added to a favorite channel list without user intervention (subscriber's favorite channel is provided to the subscriber using intelligent method and learning mode with computer software where the information is gathered unbeknownst to the subscriber).

Applicant further argues Hendricks patents do not disclose "means for identifying" of claim 1 is not inherent because Hendricks discloses the search tool of Hendricks is not used to populate a favorite channel list, but rather is used as a responsive method of suggesting programs or channels (pages 14-15). This argument is respectfully traversed.

It is noted that claim 1 does not recited the search tool is used to populate a favorite channel list.

As discussed above, Hendricks discloses viewer's activities are gathered unbeknownst to the subscribers and subscriber's favorite channel is provided to the subscriber using intelligent method and/or computer software.

Hendricks further discloses microprocessor(s) for control operations of the delivery system; only channels and/or programs associated with particular theme such as movies, sports, etc. in different timeslot such as next six hours, next seven days, etc. are displayed in response to user specified theme (see include, but are not limited to, figures 32a-32e, col. 32, lines 35-47; Patent No. 5,798,785: col. 28, line 66-col. 33, line 57, col. 35, line 5-col. 37, line 42, figures 11-12b, 13; Pat. No. 5,990,927: col. 33, line 25-col. 34, line 33). Thus, Hendricks must discloses "means for identifying" (e.g., microprocessor) so that only channel which related to the user specified theme such as movie, sports, etc.... is provided for display to the user according to predetermined time slots.

If Hendricks does not disclose this feature, how can the channel and/or programs are arranged to display according to a specified theme such as sports, movies, etc. in particular time slot?

For the reasons given above, rejections on the claims are analyzed as discussed below.

Claims 13-18, 30-33 have been canceled.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2623

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6, 19-29, 34-40, 43-48, 50-51 are rejected under 35

U.S.C. 102(e) as being anticipated by Hendricks et al. (US 6,539,548).

Note: US 5,798,785 is continuation of Ser. No. 08/160,282 (Pat. No. 5,659,350; CIP of applications: 07/991,074; 08/160,280 (Pat. No. 5,600,364); 08/160,281 (Pat. No. 5,798,785); 08/160,193 (Pat. No. 5,734,853); 08/160,194 (Pat. No. 5,990,927); 08/160,283 (Pat. No. 5,682,195); 08/160,280 (Pat. No. 5,600,364). These applications are incorporated by reference (col. 1, lines 5-30). All the applications incorporated by references in their entireties in Patent No. 6,539,548 are treated as part of the specification of patent No. 6,539,548).

Regarding claim 1, Hendricks discloses a computerized system for managing favorite channels (e.g., favorite channels, most often watched channels) based on a user specified theme (e.g., movies, sports, etc.) – see include, but are not limited to, figures 32g-32h, 35a; Pat. No. 5,798,785: col. 28, line 64-col. 33, line 65, figures 11a-12b and discussed in the "response to Arguments" above), the computerized system comprising:

means for selecting predetermined keywords for the user specified theme (e.g., user input device for selecting keywords for user specified theme such as

Art Unit: 2623

movies, sports, news, etc. – see include, but are not limited to, Pat. No.

5,798,785: figures 11a-12b, col. 29, line 1-col. 30, line 64);

one or more favorite channel lists (e.g., favorite channels and/or most often watched channels).

Hendricks further discloses the user accessing a specific channel by entering the actual channel number to make selection (col. 12, line 59-4)...menu channel selections with channel numbers – see figures 25a-26. Service database file 503 contains service records with each record representing an available service. Virtual channel are non existent channels which are mapped ... Services are then mapped into local head end channels...(col. 28, line 66-col. 29, line 24, figures 25-26). Thus, the favorite channel lists is inherently comprising one or more logical channels (e.g., channel number, or virtual channel) relating to the user specified theme (news, sports, movies, etc.) so that when a channel number is entered via user input, the tuner is tuned to corresponding broadcast channel;

wherein the computerized system identifies the logical channels (e.g., channel number, or virtual channel) showing an event of the user specified theme and automatically adds each of the logical channels to the favorite channel list without user intervention (add/suggest each of the favorite channel /most often watched channel into the list according to "learning" method, or user profile information– see include, but are not limited to, figures 25a-26, 32g-32h, 35a; Pat. No. 5,798,785: col. 28, line 66-col. 30, line 50, figures 11a-12d and discussion in "Response to Arguments" above);

means (e.g., microprocessor) for identifying the one or more logical channels which relate to the user specified them by detecting a match of the predefined keywords of the user specified theme, the identifying being based on programming constrained within a predetermined number of timeslots ahead of a current time (e.g., programming within next six hours, next seven days, etc. see include, but are not limited to, figures 32a-32e; Pat. No. 5,798,785: col. 28, line 66-col. 33, line 57, col. 36, lines 1-66, figures 11-12b, 13; Pat. No. 5,990,927: col. 33, line 25-col. 34, line 33 and discussion in the "Response to Arguments" above);

a favorites database for storing one or more favorite channel lists (see include, but are not limited to, col. 33, lines 15-49).

Regarding claim 2, Hendricks further discloses the system comprising an EPG content database storing a plurality of events available on one or more television channels for a period of time (see include, but are not limited to, figures 32a-32e; Pat. No. 5,798,785: figure 8, 10-14, col. 30, lines 5-50; Pat. No. 5,990,927: col. 33, line 25-col. 34, line 33; Pat. No. 5,600,364: figures 11-13).

Regarding claim 3, Hendricks further discloses the user specified theme corresponds to a theme field of the events in an EPG content database (see include, but are not limited to, figures 10, 14-16, 23a-23b; Pat. No. 5,798,785: figures 8, 11a, 11d, col. 12, lines 55-60, col. 20, lines 6-45, col. 31, lines 34-39; Pat. No. 5,600,364: col. 30, line 60-col. 31, line 8).



Regarding claim 4, Hendricks discloses the system as discussed in the rejection of claim 3. Hendricks further discloses an EPG data service (e.g., network controller, microprocessor, signal processor) for managing the EPG content database, the EPG data service providing functions for loading electronic program guide type data from one or more data services (see include, but are not limited to, figures 3-13; Pat. No. 5,798,785: figures 3-4, 6, 8; Pat. No. 5,600,364: figures 4-5,7,11-15).

Regarding claim 5, Hendricks discloses the system as discussed in the rejection of claim 1. Hendricks further discloses the system further comprising a favorite service providing one or more user interface and a plurality of management functions for each one of the favorite channel lists (e.g., select to tune to a channel, program, or display favorite channel list, etc.) – see include, but are not limited to, figures 19-22; Pat. No. 5,798,785: figures 11-14, col. 33, lines 14-34).

Regarding claim 6, Hendricks discloses the system as discussed in the rejection of claim 3. Hendricks further discloses the managing functions include at least one function selected from the group of functions consisting of: adding a favorite event to one of the favorite channel lists, selecting a favorite event from one of the favorite channel lists (see include, but are not limited to, Pat. No. 5,798,785: figures 12a-12b, col. 29, lines 25-48, col. 33, lines 14-49).

Art Unit: 2623

Regarding claim 19, the limitations of the method that correspond to the limitation of the system of claim 1 are analyzed as discussed with respect to the rejection of claim 1, wherein the limitation of logical channel identifying are updated according to a predetermined updated frequency (see include, but are not limited to, Pat. No. 5,798,785: col. 25, lines 35-57, col. 29, lines 25-48, col. 35, lines 5-60).

Regarding claim 20, Hendricks discloses a method as discussed in the rejection of claim 19. Hendricks further discloses matching one or more event sub-themes (e.g., college football, comedy, etc.) from an EPG content database to the user specified theme (e.g., sports, movies) – see include, but are not limited to, Pat. No. 5,798,785: figures 11a-14, col. 25, lines 35-41; Pat. No. 5,659,350: col. 35, lines 52-60).

Regarding claim 21, Hendricks discloses a method as discussed in the rejection of claim 19. Hendricks further discloses matching one or more generic event sub-themes from an EPG content database to the user specified theme (e.g., college football, comedy, etc.) from an EPG content database to the user specified theme (e.g., sports, movies) – see include, but are not limited to, Pat. No. 5,798,785: figures 11a-14, col. 25, lines 35-41; Pat. No. 5,659,350: col. 35, lines 52-60).

Regarding claim 22, Hendricks discloses a method as discussed in the rejection of claim 19. Hendricks further discloses the logical channels identified during the step of identifying depend on the update frequency which is included in the EPG content database and the number of time slots included in the favorite channels lists – see include, but are not limited to, (see include, but are not limited to, Pat. No. 5,798,785: col. 25, lines 35-57, col. 29, lines 25-48, col. 35, lines 5-60; Pat. No. 5,990,927: col. 33, line 24-col. 34, line 33; Pat. No. 5,600,364: figures 11-15).

Regarding claim 23, Hendricks further discloses matching one or more words in an event description from the EPG content database to the user-specified theme (see include, but are not limited to, Pat. No. 5,798,785: col. 30, line 34-col. 31, line 40).

Regarding claim 24, the limitations correspond to the limitations of claim 1, and are analyzed as discussed with respect to the rejection of claim 1, wherein the claimed “processor” is interpreted as microprocessor or signal processor or network controller; the computer readable medium is interpreted as ROM, RAM, or storage device, etc. (see include, but are not limited to, Pat. No. 5,798,785: figures 4-10A).

Regarding claims 25-29, the limitations of a computer readable medium that correspond to the limitations of the method as claimed in claims 19-23 are analyzed as discussed with respect to the rejection of claims 19-23.

Regarding claim 34, Hendricks discloses updating program guide information in abstract database including channel information. Hendricks also discloses the program guide information is assigned with timeslot (e.g., time, date, or year). The favorite program channel or most often watched channels are changed depends on time (see include, but are not limited to, Pat. No. 5,798,785: col. 12, lines 54-63, col. 20, lines 1-56, col. 25, lines 35-41, col. 29, lines 25-67, col. 31, lines 57-63, col. 33, lines 15-49, col. 35, line 44-60, col. 36, lines 57-67; Pat. No. 5,600,364: figures 13,18,21-22, col. 33, lines 13-37; US 6,539,548: col. 16, line 15-col. 17, line 6, col. 22, lines 15-33, 23, lines 47-50, col. 28, lines 36-52, col. 36, lines 13-18, col. 48, lines 15- 44,. As a result of updating/changing of program guide information based on time, the logical channels are updated at least once per timeslot (e.g. hourly, daily, monthly, or seasonal, etc.).

Regarding claim 35, Hendricks further discloses the timeslot is one-half hour in length (see include, but are not limited to, figure 32d, col. 19, line 30-col. 20, line 16).

Regarding claim 36, Hendricks further discloses the predetermined number of timeslots is at least several hours in duration (see include, but are not limited to, figures 32a-32d, pat. No. 5,798,785: figures 11a-11e).

Art Unit: 2623

Regarding claim 37, Hendricks further discloses the means for identifying comprises a set of predetermined keywords (e.g., movies, sports, actor names, etc.) that may be selected for use in defining the user specified theme (see include, but are not limited to, figures 25a-27; Pat. No. 5,798,785: figures 11a-11e, col. 30, lines 25-64, col. 31, lines 34-63).

Regarding claim 38, Hendricks further discloses means (e.g., network controller, signal processor, or microprocessor, etc.) for updating the one or more favorite channel lists to include only those of the one or more logical channels that relate to the user specified theme selected from the programming constrained within the predetermined number of timeslots ahead of the current time (e.g., next six hours, next seven days, etc. – see include, but are not limited to, figures 3-13, 23a-23b, 25a-26, 32a-32c).

Regarding claim 39, Hendricks further discloses the predetermined keywords are direct broadcast satellite (DBS) content descriptors (program control information including keywords such as movies, sports, actor name, etc. are broadcast over DBS (see include, but are not limited to, col. 18, lines 63-col. 19, line 5, figure 2).

Regarding claim 40, Hendricks further discloses one or more logical channels are identified to relate to the user specified theme by the match of the predetermined keywords (e.g. movies, sports, actor, network name, etc.) independent of a number of times the one or more logical channel have been viewed (see include,

Art Unit: 2623

but are not limited to, figures 19, 23a-23b, 25b-25c, Pat. No. 5,798,785: figures 11a-11e, col. 30, line 40-col. 31, line 62, col. 33, lines 14-48).

Regarding claims 43-48, 50-51 the additional limitations as claimed correspond to the additional limitations as claimed in claims 34, 39-40, and are analyzed as discussed with respect to the rejection of claims 34, 39-40.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7-12, 41-42, 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks in view of Kostreski (US 5,734,589).

Regarding claim 7, Hendricks discloses the computerized system as discussed in the rejection of claim 1. However, Hendricks does not explicitly disclose a channel map service for determining a physical channel number and a corresponding physical device for each one of the logical channels.

Kostreski discloses a channel map service for determining a physical channel number and a corresponding physical device (e.g., device of network)

Art Unit: 2623

for each one of the logical channels (SEL channels) – see include, but are not limited to, figure 5, col. 28, line 25-col. 30, line 33). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks with the teaching as taught by Kostreski in order to improve convenience for user to access a desired channel.

Regarding claim 8, the limitations that correspond to the limitations of claims 1 and 7 are analyzed as discussed with respect to the rejection of claims 1 and 7. Hendricks further discloses display screen configured to show the identified logical channels (see include, but are not limited to, figures 25a-25b, 32b,19); application user interface to allow a user to access the computerized system (see include, but are not limited to, figures 3-25b); Hendricks further discloses electronic program guide content service for determining what is programmed on the logical channel (once the logical channel is selected, associated physical channel is tuned to – see include, but is not limited to, col. 12, line 60-col. 13, line 14; col. 35, line 20-65). Kostreski discloses calling channel map services to determine the corresponding physical channel and physical device (access channel map service to determine the channel network associated with the selected channel number – see include, but are not limited to, figure 5, col. 28, line 25-col. 30, line 33).

Art Unit: 2623

Regarding claims 9-10, 12, 41-42, 49 the additional limitations correspond to the additional limitations of claims 7, 6, 2, 39-40, 34 and are analyzed as discussed with respect to the rejection of claims 7, 6, 2, and 39-40,34.

Regarding claim 11, Hendricks in view of Kostreski discloses the computerized system as discussed in the rejection of claim 8. Hendricks further discloses a favorite database for storing one or more favorite channel lists (see include, but are not limited to, Pat. No. 5,798,785: col. 33, lines 15-49).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bedard (US 5,801,747) discloses method and apparatus for creating a television viewing profile.

Chor et al. (US 6,141,003) discloses channel bar user interface for an entertainment system.

Alexander et al. (6,177,931) discloses systems and methods for displaying and recording control interface with television programs, video, advertising information and program scheduling information.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



Art Unit: 2623

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON P. HUYNH whose telephone number is (571)272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/  
Primary Examiner, Art Unit 2623

April 21, 2008